

MEMORANDUM

Agenda Item No. 7(A)

TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: February 20, 2013

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Ordinance amending Section
20-5 and 20-22 of the Code
pertaining to boundary changes
and incorporations

This item was amended at the Infrastructure and Land Use committee on 12-12-12. The committee amendment would allow an annexation petition or application or incorporation petition (collectively, "Petition") to proceed through the required processes up to the point of final consideration by the Board of County Commissioners, while an investigation of an allegation of wrongdoing is ongoing. The original item would have required that the Petition be suspended, until the investigation of wrongdoing is concluded.

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Senator Javier D. Souto.



R. A. Cuevas, Jr.
County Attorney

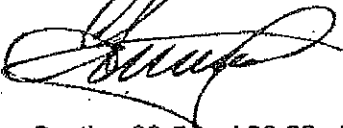
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Memorandum



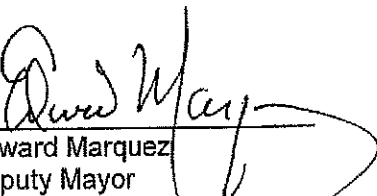
Date: February 20, 2013

To: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor 

Subject: Ordinance Amending Section 20-5 and 20-22 of the Code Pertaining to Boundary
Changes and Incorporations

The proposed ordinance does the following: requires certain reviews of proposed boundary changes and incorporations and notifications to appropriate authorities; provides for immediate temporary suspension of proposed boundary changes or incorporations upon conclusion that there are certain deficiencies; and gives the County Commission discretion to refer boundary change applications or petitions to the Planning Advisory Board. Implementation of this ordinance will not have a fiscal impact to the County because the work required for reviews and notifications can be absorbed by existing staff.


Edward Marquez
Deputy Mayor

Fis1913




MEMORANDUM

(Revised)

TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: February 20, 2013

FROM: 
R. A. Cuevas, Jr.
County Attorney

SUBJECT: Agenda Item No. 7(A)

Please note any items checked.

- ☐ "3-Day Rule" for committees applicable if raised
- ☒ 6 weeks required between first reading and public hearing
- ☒ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Ordinance creating a new board requires detailed County Mayor's report for public hearing
- ☐ No committee review
- ☐ Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous ____) to approve
- ☐ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 7(A)
2-20-13

ORDINANCE NO. _____

ORDINANCE AMENDING SECTION 20-5 AND 20-22 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA PERTAINING TO BOUNDARY CHANGES AND INCORPORATIONS; REQUIRING CERTAIN REVIEWS OF PROPOSED BOUNDARY CHANGES AND INCORPORATIONS AND NOTIFICATIONS TO APPROPRIATE AUTHORITIES; PROVIDING FOR IMMEDIATE TEMPORARY SUSPENSION OF PROPOSED BOUNDARY CHANGES OR INCORPORATIONS UPON CONCLUSION THAT THERE ARE CERTAIN DEFICIENCIES; GIVING THE COUNTY COMMISSION DISCRETION AS TO WHETHER TO REFER BOUNDARY CHANGE APPLICATIONS OR PETITIONS TO THE PLANNING ADVISORY BOARD; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
MIAMI-DADE COUNTY, FLORIDA:**

Section 1. Section 20-5 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

Sec 20-5. Initial consideration of proposed boundary changes.

The Clerk of the County Commission, upon receipt of a request for boundary change filed in compliance with Section 20-3 or Section 20-4 hereof, shall >>refer such matter to the Office of the County Attorney ("County Attorney") for review for legal form and sufficiency.

¹ Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

If the County Attorney determines that there is any defect in the petition or application in that it does not substantially comply with the requirements of the Home Rule Charter, the Code of Miami-Dade County, or other provisions of law, the petition or application shall be temporarily suspended and returned to the Office of Management and Budget for review and correction by the petitioners or applicants.

If the County Attorney or the Office of Management and Budget have been presented with a written, signed document from any official or a citizen, group of citizens or an organization alleging that the information in the information in boundary change petition or application is false or misleading and would defraud the public, the County Attorney or the Office of Management and Budget shall immediately notify the County Commission, the Office of the Inspector General or any other state or federal authority that may have jurisdiction over such matters.<< ~~[[Upon notification to the appropriate authorities,]]~~² >>While any investigation by the appropriate authorities is pending, consideration and processing of<< >>the proposed boundary change shall<< ~~[[be suspended]]~~ >>continue; provided, however, the Board of County Commissioners shall not make its final decision regarding a boundary change petition<< >>until such time as the authorities with jurisdiction have completed their investigation of the matter.

If the County Attorney approves the proposed boundary change petition or application for legal form and sufficiency and there is no pending investigation of the boundary change petition or application by the appropriate authorities to determine if the information in the boundary change petition or application is false or misleading and would defraud the public, the County Attorney and the Office of Management and Budget shall inform the Clerk of the Board, who shall<< cause such matter to be placed upon the official agenda of an ensuing regular meeting of the County Commission, and shall notify the person, group or municipality initiating the boundary change of the date of the regular meeting at which such matter will be considered by the County Commission.

² Committee amendments are indicated as follows: Words double stricken through and/or ~~[[double bracketed]]~~ are deleted, words double underlined and/or >>double arrowed<< are added.

A representative of the petitioners or of such municipality, as the case may be, may be heard briefly by the County Commission in respect to the merits or propriety of the request for such boundary change. The County Commission ~~[[shall]]~~ >>may, in its discretion,<< refer such proposed boundary change to the County Planning Advisory Board for review, study, consideration and recommendations.

Section 2. Section 20-22 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Sec 20-22. Planning Advisory Board's consideration of petition for incorporation.

(A) The Director of the Office of Management and Budget, prior to transmittal to the Planning Advisory Board, shall >>refer the incorporation petition to the Office of the County Attorney ("County Attorney") for review for legal form and sufficiency.

If the County Attorney determines that there is any defect in the petition in that it does not substantially comply with the requirements of the Home Rule Charter, the Code of Miami-Dade County or other provisions of law, the incorporation petition shall be temporarily suspended and returned to the Office of Management and Budget for review and correction by the petitioner or petitioners.

If the County Attorney or the Office of Management and Budget have been presented with a written, signed document from any official, or a citizen, group of citizens or an organization alleging that the information in the incorporation petition is false or misleading and would defraud the public, the County Attorney or the Office of Management and Budget shall immediately notify the County Commission, the Office of the Inspector General or any other state or federal authority that may have jurisdiction over such matters.<< >>While any investigation by the appropriate authorities is pending,<< [[Upon notification to the appropriate authorities]], >>consideration and processing of the proposed incorporation petition shall<< >>continue<< [[be suspended,]] >>; provided, however, the Board of County

Commissioners shall not make its final decision regarding an incorporation petition<< >>until such time as the authorities with jurisdiction have completed their investigation of the matter.

If the County Attorney approves the proposed incorporation petition for legal form and sufficiency and there is no pending investigation of the incorporation petition by appropriate authorities to determine if the information in the incorporation is false or misleading and would defraud the public, the Office of Management and Budget shall continue to process the incorporation petition and<< request the directors of all other applicable County departments to review and comment on the incorporation petition with respect to their areas of expertise and responsibility.

- (B) The Director of the Office of Strategic Business Management, upon receipt of comments and information from other departments, shall prepare a report on the petition containing the following information:

* * *

Section 3. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 4. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 5. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:



Prepared by:



Cynthia Johnson-Stacks
Craig H. Collier

Prime Sponsor: Senator Javier D. Souto